

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Amendment and Compilation of Chapter 3-128  
Hawaii Administrative Rules

October 31, 2002

SUMMARY

1. §3-128-1 is amended.
2. §§3-128-2 and 3-128-3 are amended.
3. §3-128-5 is amended.
4. §3-128-7 is amended.
5. A new §3-128-9 is added.
6. Chapter 128 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 11

PROCUREMENT POLICY BOARD

CHAPTER 128

GOVERNMENTAL RELATIONS AND COOPERATIVE PURCHASING

1. Chapter 128 of Title 3, Hawaii Administrative Rules, entitled "Governmental Relations and Cooperative Purchasing" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 11

PROCUREMENT POLICY BOARD

CHAPTER 128

GOVERNMENTAL RELATIONS AND COOPERATIVE PURCHASING

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| §3-128-1 | Definitions  |
| §3-128-2 | Cooperative purchasing subject to chapter 103D, HRS  |
| §3-128-3 | Cooperative purchasing agreements between public procurement units   |
| §3-128-4 | Public notice for cooperative purchasing agreements between public procurement units and external procurement activities |
| §3-128-5 | Cooperative purchasing agreements between chief procurement officers and nonprofit private procurement units             |
| §3-128-6 | Supply of personnel, information, and technical services   |

§3-128-7 Procurement of goods produced or services  
performed by governmental institutions  
§3-128-8 Compliance with federal requirement  
§3-128-9 Interim rules

§3-128-1 Definitions. Section 103D-801, HRS, provides definitions applicable to terms used in this chapter. [Eff 12/15/95; am and comp 11/17/97; am and comp 11/15/01; am and comp 11/25/02 ] (Auth: HRS §103D-202) (Imp: HRS §103D-801)

§3-128-2 Cooperative purchasing subject to chapter 103D, HRS. (a) Procurement by cooperative purchasing agreements shall be done in compliance with the requirements of chapter 103D, HRS, and title 3, subtitle 11, HAR, except when the cooperative agreement is initiated by an external procurement unit.

(b) Contracts described in section 3-122-143, HAR, are the principal contract types for cooperative purchasing agreements subject to any restrictions specified in this chapter. [Eff 12/15/95; am and comp 11/17/97; am and comp 11/15/01; am and comp 11/25/02 ] (Auth: HRS §103D-202) (Imp: HRS §103D-802, 103D-804)

§3-128-3 Cooperative purchasing agreements between procurement units. All cooperative purchasing agreements shall provide that:

- (1) A procurement unit shall be designated as lead agency for the procurement;
- (2) An order for any good or service shall be placed on an as needed basis by the participating procurement units in accordance with the terms and conditions of the agreement;
- (3) Payment for any good or service shall be the exclusive responsibility of the procurement unit which placed the order;
- (4) Inspection and acceptance of any good or service shall be the exclusive obligation of the procurement unit which placed the order;
- (5) The lead agency for the procurement may terminate the cooperative agreement with a procurement unit for failure of that unit to comply with the terms of the contract;
- (6) The exercise of any warranty rights attached

to any good or service obtained through a purchase order shall be the exclusive right of the procurement unit which placed the order; and

- (7) Failure of a procurement unit which is procuring the good or service from a cooperative agreement contract to secure performance from the contractor pursuant to its terms and conditions, may not necessarily preclude the remaining procurement units from obtaining goods and services from the cooperative agreement contract. [Eff 12/15/95; am and comp 11/17/97; am and comp 11/15/01; am and comp 11/25/02 ] (Auth: HRS §103D-202) (Imp: HRS §§103D-802, 103D-803)

§3-128-4 Public notice of cooperative purchasing agreements between public procurement units and external procurement activities. The public procurement unit shall place a notice of the solicitation within the State pursuant to section 3-122-24. [Eff 12/15/95; comp 11/17/97; comp 11/15/01; comp 11/25/02 ] (Auth: HRS §103D-202) (Imp: HRS §§103D-802, 103D-803)

§3-128-5 Cooperative purchasing agreements between chief procurement officers and nonprofit private procurement units. (a) A chief procurement officer may enter into a cooperative purchasing agreement with a nonprofit private procurement unit if:

- (1) The nonprofit private procurement unit is under a purchase of services contract with the State, pursuant to chapter 103F, HRS; and
- (2) The nonprofit private procurement unit submits an application to enter into a cooperative purchasing agreement and receives approval from the chief procurement officer. An agreement form shall be developed by the chief procurement officer for this purpose.

(b) The chief procurement officer may charge a nominal fee for participation by a nonprofit organization. [Eff 12/15/95; comp 11/17/97; am and comp 11/15/01; am and comp 11/25/02 ] (Auth: HRS §103D-202) (Imp: HRS §§103D-802, 103D-804)

§3-128-6 Supply of personnel information and technical services. Requests to one public procurement unit by another public procurement unit, or an external procurement activity to provide or make available personnel, services, information, or technical services pursuant to section 103D-806, HRS, shall be complied with only to the extent that the chief procurement officer determines that it is practicable to do so. [Eff 12/15/95; comp 11/17/97; comp 1/15/01; comp 11/25/02 ] (Auth: HRS §103D-202) (Imp: HRS §103D-806)

§3-128-7 Procurement of goods produced or services performed by governmental institutions. Goods or services provided by Ho'opono workshop, correctional industries, or other governmental institutions may be obtained by governmental agencies without public solicitation. [Eff 12/15/95; comp 11/17/97; am and comp 11/15/01; am and comp 11/25/02 ] (Auth: HRS §103D-202) (Imp: HRS §103D-803)

§3-128-8 Compliance with federal requirement. Any procurement which involves the expenditure of federal assistance or contract monies shall comply with applicable federal law and regulations. [Eff 12/15/95; am and comp 11/17/97; comp 11/15/01; comp 11/25/02 ] (Auth: HRS §103D-202) (Imp: HRS §103D-102)

§3-128-9 Interim rules. This chapter 128, subtitle 11 of title 3, Hawaii Administrative Rules, replaces rescinded interim rules previously adopted on 11/15/01 (file no. 2401)." [Eff 11/25/02 ]

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Amendments to and compilation of chapter 3-128, Hawaii Administrative Rules, on the Summary page dated October 31, 2002, were adopted on October 31, 2002 following a public hearing held on October 16, 2002 in Honolulu, Hawaii; and via video conference from Honolulu, Hawaii on October 16, 2002 to Hilo, Hawaii; Wailuku, Maui; and Lihue, Kauai; after public notice was given in the Honolulu Star Bulletin, Hawaii Tribune-Herald, West Hawaii Today, The Maui News and The Garden Island on September 16, 2002.

They replace interim rules dated 11/15/01 and shall take effect ten days after filing with the Office of the Lieutenant Governor.

PHYLLIS M. KOIKE  
Chairperson  
Procurement Policy Board

MARY ALICE EVANS  
State Comptroller

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BENJAMIN J. CAYETANO  
Governor  
State of Hawaii

Date:\_\_\_\_\_

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Filed

APPROVED AS TO FORM:

Deputy Attorney